

SURREBBUTTAL TESTIMONY  
OF  
DARIN BURK  
PIPELINE SAFETY PROGRAM MANAGER  
SAFETY AND RELIABILITY DIVISION  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission on its own motion

Vs.

City of Creal Springs Utility

DOCKET NO. 12-0637

Citation for alleged violation of  
Federal rules incorporated  
By the Illinois Commerce Commission  
Regarding General Requirements

April 3, 2014

1 WITNESS IDENTIFICATION

2 **Q. What is your name and business address?**

3 **A.** My name is Darin Burk. My business address is 527 E. Capitol Avenue, Springfield,  
4 IL 62701.

5 **Q. By whom are you employed and in what capacity?**

6 **A.** I am employed by the Illinois Commerce Commission ("Commission") as the  
7 Pipeline Safety Program Manager in the Pipeline Safety Program ("PSP") in the  
8 Safety and Reliability Division. In my current position I oversee the day to day  
9 inspection activities of the PSP, supervise the Analysts, review inspection reports  
10 and notify pipeline operators when alleged violation of the Federal requirements  
11 adopted via IL Adm. Code Part 590.

12 **Q. Please describe your education and experience?**

13 **A.** Prior to employment with the ICC, I was a Technician for Utility Safety and Design  
14 Inc. ("USDI") and the Southern Cross Corporation. Both companies provide field  
15 consulting services to the natural gas industry. I have received extensive technical  
16 training at the Pipeline and Hazardous Materials Safety Administration Training and  
17 Qualification ("PHMSA TQ") center in Oklahoma City, OK, which is where state and  
18 federal pipeline safety inspectors receive technical education relating to the  
19 interpretation and enforcement of pipeline safety regulations. Training at PHMSA  
20 TQ included subjects such as incident investigation, pipeline integrity management,  
21 operator qualification, pipeline corrosion control and various other technical aspects

of natural gas pipeline operations. I worked as a Pipeline Safety Analyst for 17.5 years and have been managing the PSP for 7.5 years.

**PURPOSE OF TESTIMONY**

**Q. What is the purpose of your testimony?**

**A.** The purpose of my testimony is to present Staff of the Commission's ("Staff") position regarding the progress the City of Creal Springs Gas Utility ("Creal Springs") toward remediation of the alleged violations and provide an update of the compliance status of Creal Springs in general.

**Q. Can you provide a brief overview of the facts of the case?**

**A.** Yes, Staff conducted a compliance record audit of the Creal Springs gas distribution system in May 28, 2009. During that audit Staff identified that Creal Springs was in alleged violation of the requirements contained in 49 Code of Federal Regulations ("CFR") Sections: 192.615(c) that requires each operator of a pipeline to establish and maintain liaison with appropriate fire, police and other public officials; 192.625(f) that requires each operator to conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable; 192.465(d) that requires each operator to take prompt remedial action to correct any deficiency indicated by the corrosion control monitoring; and 192.721(b) that outlines operator requirements to periodically patrol mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage. On June 9, 2009, a Notice of Probable Violation ("NOPV") letter was sent by me to the Honorable Joyce Rich, Mayor of the

City of Creal Springs outlining the failure to comply with the sections of the CFR listed above. That letter requested that Creal Springs respond by June 28, 2009, in writing, to the probable violations reference in the letter. A response was received on July 9, 2009. The response indicated that Creal Springs would: conduct meetings with fire and police officials to address the 192.615(c) requirements; test odorant levels on a monthly basis to address the 192.625(f) requirements; and contract USDI to address the 192.465(d) requirements regarding corrosion control monitoring. The letter did not include actions to address the 192.721(b) requirements regarding the periodic patrol of mains.

**Q. Were additional inspection activities conducted?**

**A.** Yes. Staff conducted a compliance record audit of Creal Springs as well as a Compliance Follow-up inspection on January 20, 2010. The Compliance Follow-up identified that Creal Springs had taken actions to correct the violations associated with 49 CFR Sections 192.615(c), 192.465(d) and 192.721(b) requirements. Staff identified that the issues regarding CFR Section 192.625(f) had not been addressed. A Standard Inspection conducted April 24-26, 2012, again identified that Creal Springs was in violation of all of the code sections listed above as well as 15 additional sections of the CFR. A Standard Inspection conducted July 9-11, 2013 identified violations of 6 code sections including Section 192.615(c) and 192.465(d). The inspection confirmed that actions had been taken to correct the violation associated with Section 192.721(b). A Compliance Follow-up and Standard Inspection was conducted November 5-7, 2013. The inspections verified that several NOPVs had been corrected including those associated with Section

192.615(c) and 192.465(d). Compliance Follow-up inspections have been conducted December 27, 2013, January 8, 2014, and February 27-18, 2014. The Compliance Follow-up conducted February 27-18, 2014, identified 1 additional violation.

**Summary**

**Q. Please summarize your testimony.**

**A.** Creal Springs has taken actions to correct the violations of the CFR that caused Staff to request that this proceeding be initiated but has exhibited a continued pattern of refusal to comply with other CFR requirements. At this time, our records indicate that Creal Springs continues to be in violation of its own procedures associated with leak classification and monitoring.

**Q. Do you have a recommendation regarding penalty assessment?**

**A.** Creal Springs on going failure to comply with the safety requirements of the CFR demonstrates that Creal Springs does not take seriously the obligation to adhere to the minimum safety requirements contained in CFR Part 192. I concur with the \$62,000 penalty assessment recommended by Matthew Smith. (ICC Exhibit 2, Line 221)

**Q. Does this conclude your testimony?**

**A.** Yes, it does.